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Filing date: **02/24/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92049013
Party	Defendant INA GARTEN LLC
Correspondence Address	John P. Margiotta Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza 6th Floor New York, NY 10017 UNITED STATES jm@fzlz.com
Submission	Answer
Filer's Name	Michael Chiappetta
Filer's e-mail	mc@fzlz.com
Signature	/Michael Chiappetta/
Date	02/24/2011
Attachments	Answer to Second Amended Petition (F0756556).PDF (4 pages)(131690 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 2,892,226
Mark: BAREFOOT CONTESSA
Registered: October 12, 2004

CONTESSA PREMIUM FOODS, INC.,

Petitioner,

-against-

INA GARTEN LLC,

Registrant.

Cancellation No. 92049013

REGISTRANT'S ANSWER TO SECOND AMENDED PETITION FOR CANCELLATION

Registrant Ina Garten LLC ("Registrant"), a New York company having a place of business at 46 Newtown Lane, East Hampton, New York 11937, as and for its answer to Petitioner's Second Amended Petition for Cancellation,¹ by and through its counsel Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. Registrant admits the allegations in paragraph 1 of the Second Amended Petition for Cancellation (the "Second Amended Petition").
2. Registrant denies the allegations in paragraph 2 of the Second Amended Petition.
3. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its Registration No. 2,892,226 (the "226 Registration") at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the

¹ Registrant has filed a Motion to Dismiss, Or, In The Alternative, For Summary Judgment with respect to Petitioner's fraud claim in this cancellation proceeding.

truth of the allegations contained in Paragraph 3 of the Second Amended Petition.

4. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in the '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Second Amended Petition.

5. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Second Amended Petition.

6. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Second Amended Petition.

7. Registrant denies the allegations contained in Paragraph 7 of the Second Amended Petition.

8. Registrant denies the allegations contained in Paragraph 8 of the Second Amended Petition.

9. Registrant denies knowledge or information sufficient to form a belief as to the truth of the fame allegations contained in Paragraph 9 of the Second Amended Petition, and denies all the remaining allegations in Paragraph 9.

10. Registrant admits that it has made use of the BAREFOOT CONTESSA mark in connection with the goods that it has sold and transported in the United States, including the goods identified in the '226 Registration, but denies the remaining allegations in Paragraph 10 of the Second Amended Petition.

11. Registrant denies the allegations contained in Paragraph 11 of the Second Amended Petition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. Petitioner fails to state a claim for which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

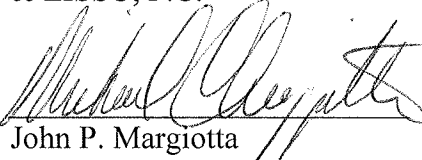
2. Petitioner's claims are barred by the doctrines of laches, acquiescence and estoppel.

WHEREFORE Registrant requests that the Second Amended Petition be dismissed with prejudice in its entirety and that the Trademark Trial and Appeal Board grant to Registrant such other and further relief as it deems just and proper.

Dated: New York, New York
February 24, 2011

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By:

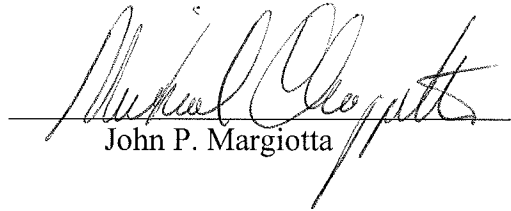

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Attorneys for Registrant
Ina Garten LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the REGISTRANT'S ANSWER TO SECOND
AMENDED PETITION FOR CANCELLATION was sent by prepaid first-class mail this 24th
day of February, 2011 to:

J.D. Harriman II, Esq.
DLA Piper LLP
1999 Avenue of the Stars, Fourth Floor
Los Angeles, CA 90067


John P. Margiotta